IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5214 OF 2003

Sangramsinha Kalyanrao Anpat..... Petitioner.

Versus

Suman Hanmant Anpat & Ors.... ..... Respondents.

Mr. G. N. Salunkhe i/by Mr. P. A. Pol
for the Petitioner.

Mr. S. S. Salunkhe for Respondent No.1A.

CORAM : S. A. BOBDE, J.

DATED : 18TH MARCH, 2005.

P.C.:

Rule.

2. Learned Counsel appearing for Respondent No.1A waives service of rule. Respondent Nos.1B to 1F, though served, have failed to file their appearance. Considering the question involved, Rule made returnable and taken up for final disposal forthwith.

3. The petitioner has challenged the order of the Additional Commissioner, Pune Division, Pune

dismissing revision filed against the order of the Sub-Divisional Officer, Madha Division, Kurduwadi, dated 4th May, 2002 setting aside the mutation entry No. 1734 in the name of the petitioner.

4. It appears vide order of the Sub-Divisional Officer that the respondent Smt. Suman herself had applied to the Talathi to delete her name and to enter the name of the petitioner in respect of the suit land Gat No. 149/2. On that basis mutation entry No. 1734 was made. This mutation entry was set aside by the Sub-Divisional Officer on the ground that on the application of Suman land could not have been transferred in favour of the petitioner. The petitioner was aggrieved by the reversal of the mutation entry. He, therefore, filed an appeal and thereafter filed a revision. However, the authorities have upheld the order dated 4th May, 2002 and hence this petition.

5. The impugned order undoubtedly makes a correct observation that the transfer of right in property cannot be done by an application. The transfer of right is always done by the well-known modes of transfer of property. It is only upon such transfer

that mutation entries are made by parties regarding transfer of right for fiscal purposes. It was, therefore, entirely unnecessary for the Sub-Divisional Officer to allow the appeal and set aside the mutation entry No. 1734 which was apparently made at the instance of the respondent Suman herself. This view is fortified by the fact that a civil suit was filed by Suman challenging the transfer of the land in question in favour of the petitioner. The learned Counsel for the respondent is not in a position to make any statement about the present stage of the suit.

6. In this view of the matter, the petition is allowed. The impugned order dated 4th May, 2002 and subsequent impugned orders are set aside. The parties shall be at liberty to apply for appropriate mutation entry in accordance with the decision of the civil court.

7. Rule made absolute in the above terms. This petition is, accordingly, disposed of. No order as to costs.

Sd/-

(**S. A. BOBDE, J.**)